

REMARKS

The Office Action mailed June 6, 2007, has been carefully considered. The present Amendment is intended to be a complete response thereto and to place the case in condition for allowance.

Claims 1 and 4-10 are pending. Claims 2-3 and 11-12 have been cancelled without prejudice. Claim 9 has been amended to be dependent from claim 1, instead of cancelled claim 3.

TELEPHONE INTERVIEW WITH EXAMINER

Upon review of the Office Action dated June 6, 2007, it appears that the Examiner did not address all of the Applicant's arguments. Accordingly, counsel conducted a telephone interview with Examiner Gouthier on or about June 14, 2007 to discuss the outstanding Office Action. Counsel repeated the arguments presented in the Amendment filed March 28, 2007. The Examiner indicated that the arguments were persuasive and would be reconsidered if filed in writing. Accordingly, the present Amendment re-submits the arguments made in the March 28, 2007 Amendment. If the Examiner repeats the rejection, it is respectfully submitted that it not be made final since the prior action was not complete, in accordance with MPEP §706.07 et seq.

THE CLAIMS ARE NOT INDEFINITE

Claim 9 stand rejected under 35 U.S.C. § 112, second paragraph, as being indefinite because it depends from cancelled claim 3. The claim has been amended to be dependent from claim 1 instead. Therefore, because claim 9 is now definite, Applicant respectfully request withdrawal of the rejection.

THE CLAIMS ARE NOT ANTICIPATED

Claim 1 and 4-10 stand rejected under 35 U.S.C. § 102(b) as being anticipated by Lange (U.S. Patent No. 2,885,561). Applicants respectfully traverse the rejection.

To anticipate a claim under 35 U.S.C. § 102, the reference must teach every element of the claim. *See* MPEP § 2131. Lange fails to teach every element of the claimed invention. In particular, the reference fails to disclose that “the image is visible in the dark but essentially invisible under normal lighting condition” as recited in independent claims 1 and 10.

The present invention is drawn to a dial having an image thereon that is formed from luminescent elements. In the dark, the image is visible due the light emitted from the luminescent elements. When under normal lighting condition, the normal light drowns out the luminescence and the image (not just the luminescence) becomes invisible.

Lange discloses a luminescent indicating device containing indicia (image) thereon. The indicia is formed of a luminescent body, such that “the indicia will appear in lighted surroundings in the natural color of the reflecting layer, will show light rays emitted from the luminescent body when looked at in the dark.” Column 2, lines 18-21. As such, in the dark, the indicia (image) is visible from the light emitted from the luminescent body; and in the light, the indicia is also visible, but in a different color. According to Lange, under normal lighting, the luminescence is invisible; however, the indicia (image formed by the luminescent body) is still visible, albeit at a different color. At no time is the indicia invisible.

On pages 3 and 4 of the Office Action, the Examiner alleges that “the luminous elements and the image they project are essentially invisible under normal lighting conditions.” To arrive at this conclusion the Examiner reasoned that “when the light level is high enough, the light

reflecting off the translucent layer 30 over powers the light emitted from the luminescent elements 20, making the reflecting layer visible, but the luminous layer and its shape or image invisible.” Office Action, page 3, first paragraph. This conclusion, however, is erroneous and is not in comport with the disclosure of Lange. The Examiner’s conclusion is based solely on the passage on column 1, lines 51-56, that states:

the partly translucent reflecting layer is visible when the intensity of outside light reflected by the translucent reflecting layer exceeds the intensity of light rays emitted by the luminescent body and passing through the partly translucent reflecting layer.

This statement merely requires that the partly translucent layer is visible in normal lighting, but does not exclude the possibility that the image can still be visible under the partly translucent layer, not in the color of the luminescence, but in the color of the translucent layer. In fact, Lange intends the image to be visible under normal lighting condition. According to the invention of Lange, when the normal light drowns out the luminescent light, the luminescence cannot be visualized; however, the indicia (image) is still visible at the color of the reflecting layer. See column 2, lines 18-21 (“the indicia will appear in lighted surroundings ...”); column 1, lines 38-45 (“... while showing in daylight indicia of a pleasing color ...”); and column 4, lines 69-73 (“The indicia ... has in daylight the appearance of a metallic or colored brilliant relief body ...”). As such, the color of the indicia of Lange during normal lighting is the natural color of the reflecting layer; while during darkness, it shows the color of the luminescent body. Column 2, lines 19-21. At no time is the indicia (image) of Lange invisible. The Examiner’s interpretation of the passage on column 1, lines 51-56, is not in consistent with the rest of Lange’s disclosure.

From closely reading the reference, Lange clearly intends his indicia to be visible in normal lighting. Column 1, lines 38-45, reads as follows:

It is another object of the present invention to provide an indicating device having luminescent indicia which in daytime have the appearance of a pleasing and strong color.

It is still another object of the present invention to provide an indicating device such as a watch or the like which can be read in the dark while showing in daylight indicia of a pleasing color and smooth surface.

(emphasis added). In addition, Lange discloses that “[t]he metal mirror layer [layer 30] or interference mirror layer causes the sharply defined configuration [the image or indicia] of the luminescent body to have in daylight a metallic or brilliantly colored appearance.” Column 3, lines 7-11 (emphasis added). Other disclosures, such as in column 4, lines 69-73 (“The indicia formed by the indentation in the rim portion of watch crystal 16 has in daylight the appearance of a metallic or colored brilliant relief body, while in the dark the light emitted by luminescent body 20 becomes visible.”), also show that Lange intends his indicia (image) to be visible in daylight. These disclosures support Applicant’s assertion that the indicia of Lange is visible in day light, even though the luminescence is not visible. There is no disclosure in the reference of an invisible image under lighting condition. Clearly, not only Lange fails to teach an invisible image under lighting conditions, the reference’s teaching is inapposite to the present invention where the image formed by the luminescent elements is invisible under normal lighting condition.

The following example illustrates the difference between the present invention and the disclosure of Lange: consider a substrate having an image (indicia) in the shape of the number “2” on its surface formed by a green luminescent material. In the dark, one would be able to see the number “2” (the image or indicia) appearing in green. However, with the invention of Lange, in daylight, the number “2” would still be visible, but appeared in the color of the

translucent layer (not green luminescent). On the other hand, with the present invention, in daylight, the number "2" would not be visible at all.

The above arguments were made in the Amendment filed March 28, 2007; however, in the Office Action of June 6, 2007, the Examiner failed to address any of these arguments. If the Examiner disagrees with Applicant's argument, Applicant respectfully requests that the Examiner address these arguments specifically, especially those referring to the disclosures of Lange et al. on column 2, lines 18-21; column 1, lines 38-45; column 3, lines 7-11; and column 4, lines 69-73, to show that the indicia (image) of Lange is visible in daylight.

Therefore, for the reasons above, Lange fails to anticipate the present invention within the meaning of 35 U.S.C. § 102. Accordingly, Applicants respectfully request withdrawal of the rejection.

CONCLUSION

Applicant has responded to the Office Action mailed June 6, 2007. All pending claims are now believed to be allowable and favorable action is respectfully requested.

In the event that there are any questions relating to this Amendment or to the application in general, it would be appreciated if the examiner would telephone the undersigned attorney concerning such questions so that the prosecution of this application may be expedited.

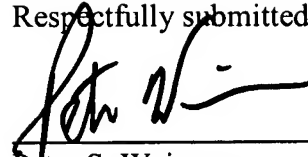
Please charge any shortage or credit any overpayment of fees to BLANK ROME LLP, Deposit Account No. 23-2185 (116598.0114). In the event that a petition for an extension of time is required to be submitted herewith and in the event that a separate petition does not accompany this response, applicant hereby petitions under 37 C.F.R. 1.136(a) for an extension of time.

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Any fees due are authorized above.

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Respectfully submitted,



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